

AMENDED IN ASSEMBLY APRIL 2, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1504

Introduced by Assembly Member Spitzer

(Coauthors: Assembly Members Bates, Bogh, Bermudez, Cox, Daucher, Dutton, Harman, Haynes, Shirley Horton, Maddox, Maldonado, Maze, McCarthy, Pacheco, and Runner)

(Coauthors: Senators Johnson and Oller)

February 21, 2003

An act to amend Section ~~4026.6~~ 1603 of the Penal Code, relating to release of committed persons.

LEGISLATIVE COUNSEL'S DIGEST

AB 1504, as amended, Spitzer. Release of committed persons.

Existing law provides that in any case in which the victim or next of kin of the victim of an offense for which the person was committed to a state hospital or other treatment facility has filed a request for notice with the director of the state hospital or other treatment facility, he or she shall be notified by the director at the inception of any program in which the committed person would be allowed any type of day release unattended by the staff of the facility. If he or she has filed a request for notification with the court, he or she shall receive actual notice from the court before the committed person is placed on outpatient status. Existing law also requires that the director of a state hospital notify certain persons upon the release of a person who has been committed to a state hospital.

This bill would require ~~that the director also~~ *the local conditional release program* to notify the victim or next of kin of the victim, if he

or she has filed a request for notification, *of the date of the hearing at which the committing court may approve a plan for the defendant's supervision and treatment in the community and his or her pending release before the committed person is released for any reason, discharged, or placed on outpatient status.* This bill would also require that the victim or next of kin of the victim be afforded the opportunity to present a victim impact statement at that hearing. Because this bill would require local agencies to perform a higher level of service, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 1026.6 of the Penal Code is amended to~~

2 *SECTION 1. Section 1603 of the Penal Code is amended to*
3 *read:*

4 1603. (a) Any person subject to subdivision (a) of Section
5 1601 may be placed on outpatient status if all of the following
6 conditions are satisfied:

7 (1) The director of the state hospital or other treatment facility
8 to which the person has been committed advises the committing
9 court that the defendant would no longer be a danger to the health
10 and safety of others, including himself or herself, while under
11 supervision and treatment in the community, and will benefit from
12 that status.

13 (2) The community program director advises the court that the
14 defendant will benefit from that status, and identifies an
15 appropriate program of supervision and treatment.

(3) After actual notice *of the hearing date and pending release is provided* to the prosecutor and defense counsel *by the court*, and to the victim or next of kin of the victim of the offense for which the person was committed *by the local conditional release program*, where a request for the notice has been filed with the court, and after a hearing in court *at which the victim was afforded the opportunity to present a victim impact statement*, the court specifically approves the recommendation and plan for outpatient status pursuant to Section 1604. The burden shall be on the victim or next of kin to the victim to keep the court apprised of the party's current mailing address.

In any case in which the victim or next of kin to the victim has filed a request for notice with the director of the state hospital or other treatment facility, he or she shall be notified by the director at the inception of any program in which the committed person would be allowed any type of day release unattended by the staff of the facility.

(b) The community program director shall prepare and submit the evaluation and the treatment plan specified in paragraph (2) of subdivision (a) to the court within 30 calendar days after notification by the court to do so.

(c) Any evaluations and recommendations pursuant to paragraphs (1) and (2) of subdivision (a) shall include review and consideration of complete, available information regarding the circumstances of the criminal offense and the person's prior criminal history.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

~~read:~~

~~1026.6.—(a) Whenever any person who has been committed to a state hospital pursuant to Section 1026 is released for any reason, including placement on outpatient status, the director of the hospital shall notify the community program director of the~~

1 county, and the chief law enforcement officer of the jurisdiction,
2 in which the person will reside upon release, if that information is
3 available.

4 (b) ~~Whenever any person who has been committed to a state~~
5 ~~hospital or other treatment facility pursuant to Section 1026 is~~
6 ~~released for any reason, discharged, or placed on outpatient status,~~
7 ~~the director of the state hospital or other treatment facility shall~~
8 ~~notify the victim or next of kin of the victim if she or she has filed~~
9 ~~a request for notice.~~

